IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Sama Ram Vs. Wolkem India Ltd. & Ors.

S.B.CIVIL WRIT PETITION NO.2625/2003

DATE OF ORDER :: January 03, 2006

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr. Rakesh Arora, for the petitioner.
Mr.M.S.Panwar for Mr.Sajjan Singh for respondents.

BY THE COURT:

By the instant writ petition under Article 226 and 227 of the Constitution of India, the petitioner has challenged the award Annexure-8 dt. 18.11.2002 passed by the Labour Court, Jodhpur, whereby the reference made to the State Government dt. 19.1.2001 was decided as no dispute between the parties.

I have heard learned counsel for the parties.

Learned counsel for the respondents submits that earlier also an identical reference on the same fact was made by the

State Government vide notification No.F.1(1)(1068)Shr.Ni.Gh/98 dt. 6.8.1999, wherein a question was referred to the Labour Court as to whether the termination of the service of the workman Sama Ram, Mechanical Helper vide order dt. 25.7.1997 was valid or not. That reference being industrial dispute case No.205/1999 came to be decided by the Labour Court on 16.4.2002 as there being no claim filed by the workman and the Labour Court made no dispute award. This fact was not disclosed by the petitioner and the petitioner again approached to the State Government for making a reference. The State Government made again reference almost verbatim that of the earlier reference dt. 6.8.1999. The notice was served to the petitioner workman. The counsel appeared on behalf of the petitioner before the Labour Court and sought time to file the claim but despite several opportunities, no claim was filed and ultimately, the matter was fixed on 11.9.2002. Again the adjournment was sought to file the claim and on 18.11.2002, neither the workman nor his counsel appeared and no claim was filed and, therefore, the Labour Court finding no dispute, made the no dispute award vide order impugned dt. 18.11.2002.

Learned counsel appearing for the respondents submits that the writ petition deserves to be dismissed on the ground of concealment of the material fact that earlier also, a reference

was made by the State Government, which has been decided by the Labour Court vide order dt. 16.4.2002 Annexure-R-1/2.

Learned counsel for the respondents has relied on a decision of the Hon'ble Supreme Court in Taluka Panchayat, Visnagar vs. Ichhaben Shivram Dave, **1999 SCC (L&S) 1083**, wherein the Apex Court held that the writ petition filed by the petitioner therein was withdrawn and OA subsequently filed by her was dismissed by the Administrative Tribunal on the ground that she had already superannuated and that was the reason of termination. Thereafter she raising an industrial dispute and the same being referred to the Labour Court. History of earlier litigation not disclosed by her before the Labour Court. The Labour Court awarded reinstatement with back wages. In such circumstances, the reference made to the Labour Court itself, held, was incompetent and the award given by the Labour Court was unsustainable.

Keeping in view the facts and circumstances of the case and the fact that the State Government earlier made a reference, which was decided by the Labour Court vide order dt. 16.4.2002 Annexure.R-1/2 and that order became a final order and without disclosing the fact that the reference was made to the Labour Court on the same facts by the State Government,

the petitioner again approached the State Government and even after second reference on the same facts, several opportunities were granted to the petitioner to make the claim, however, neither the petitioner nor his counsel appeared before the Labour Court and filed the claim and the Labour Court having no option except to pass a no dispute award, in my view the Labour Court was justified in making no dispute award impugned Annexure-8. In this view of the matter, no case for interference in writ jurisdiction is made out.

The writ petition is, therefore, dismissed.

[H.R.PANWAR],J.

m.asif/-